

SECTION III-A - USE REGULATIONS

III-A.1 PERMITTED USES IN DISTRICTS (ZONES AS SET OUT IN SECTION II-A & B)

a. In such Districts no building or structure shall be erected or used and no premises shall be used except as set forth in the "Use Regulations Schedule" herein and in accordance with the following notations:

P - A permitted use

O - An excluded or prohibited use

A - Use allowed under a Special Permit as granted by a Special Permit Granting Authority and as designated elsewhere in this By-Law (RS includes all Single Residence Districts unless otherwise specified)

b. Permitted uses and uses allowed by the Special Permit Granting Authority shall be in conformity with the provisions of Section IV-B and shall not be detrimental or offensive or tend to reduce property values in the same or adjoining districts by reason of dirt, dust, glare, odor, fumes, smoke, gas, sewage, refuse, noise vibration, or danger of explosion or fire.

III-A1 WATER RESOURCES PROTECTION DISTRICT

(Deleted, Art. 15, Fall A.T.M., Oct. 7, 1986)

III-A.3 FLOOD PLAIN DISTRICT

(a) **PURPOSE:** The purpose of the Flood-Plain District is to preserve and maintain the ground water table; to protect the public health and safety, persons and property against the hazards of flood-water inundation; and for the protection of the community against the costs which may be incurred when unsuitable development occurs in swamp, marshes, along water courses, or in areas subject to floods.

(b) **LOCATION OF FLOOD PLAIN DISTRICT:** The Flood Plain District is herein established as an overlay district. The underlying permitted uses are allowed provided that they meet the following additional requirements as well as those of the Massachusetts State Building Code dealing with construction in flood plains. The Flood Plain District includes:

1. All areas shown as being within the 100-year flood plain on the TOWN OF NATICK DRAINAGE STUDY, 100-YEAR FLOOD PLAIN MAP, 1" equals 100', September 1979 by Coffin & Richardson, Inc., Engineers, Boston, Massachusetts. As further described in the Drainage Report,

Natick Massachusetts, September 1979 prepared by Coffin & Richardson.

2. All areas shown as Zone A or AI-30 on the Natick Flood Insurance Rate Maps, (FIRM) , and Flood Boundary and Floodway Maps, dated February 1, 1980 prepared by the Federal Insurance Administration for the National Flood Insurance Program. As further described in the "Flood Insurance Study, Town of Natick Massachusetts, August 1979" prepared by the Federal Insurance Administration.

In the event of any discrepancy between the above delineations of the 100-year flood plain, the Building Inspector, after consultation with the Natick Conservation Commission, shall determine which map will apply.

(c) PERMITTED USES:

1. Within a Flood Plain District, no structure or building shall be erected or extended and no premises shall be used except for one or more of the following uses: any woodland, grassland, wetland, agricultural, horticultural or recreational uses of land or water not requiring filling. Buildings and sheds accessory to any of the Flood Plain Uses are permitted. Any such building or structure shall be designed, placed and constructed to offer a minimum obstruction to the flow of water, and it shall be firmly anchored to prevent floating away.

2. The following are permissible exceptions to paragraph 1: In and Flood Plain District after the adoption of this provision, no land, building, or structure shall be used for sustained human occupancy, except dwellings theretofore lawfully existing. Building permits shall be issued on request whereby buildings and structures theretofore lawfully existing may be repaired, restored, altered, enlarged, or rebuilt, and structures accessory to the existing use may be constructed in compliance with all other zoning laws and applicable state and municipal laws and regulations, provided that any such altered or rebuilt foundation shall not extend beyond the pre-existing building foundation boundary. (Any such pre-existing use shall not be rescinded by any other part of the Flood Plain Zoning By-Law. For example, this shall pertain to pre-existing buildings and structures which are subsequently damaged or destroyed by fire or disaster).

3. The following is a permissible exception to Paragraphs 1 and 2: In any Flood Plain District after the adoption of this provision, the Board of Appeals may issue a permit for any use permitted outside a Flood Plain District based on the following conditions:

- a. That any such use of such land will not interfere with the general purposes for which Flood Plain Districts have been established.
 - b. That any such use of such land will not be detrimental to the public health, safety or welfare.
 - c. The Board of Appeals will refer the question to the Planning Board, the Board of Health, the Board of Public Works, the Board of Selectmen and the Town Conservation Commission for recommendations. It will consider those recommendations returned within 14 days by the above Boards.
 - d. In the floodway, designated on the Flood Boundary and Floodway Map the following special conditions must be met:
 - 1. All encroachments, including fill, new construction, substantial improvements to existing structures, and other development are prohibited unless certification by a registered professional engineer or architect is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100-year flood.
 - 2. Any encroachment meeting standard of III. 3. d. 1. shall comply with the floodplain requirements of the State Building Code and Massachusetts Wetland Protection Act, G.L. Chapter 131, Sec. 40.
 - e. All public utilities and facilities, such as sewer, gas electrical, and water systems shall be located and constructed to minimize or eliminate flood damage, and
 - f. Adequate drainage systems, by use of natural or non-structural drainage whenever possible, shall be provided to reduce exposure to flood hazards.
4. Except as provided above, there shall be in the Flood Plain District:
- a. No land fill or dumping in any part of the District;
 - b. No drainage other than Flood-Control works by an authorized public agency;
 - c. No damming or relocation of any water course except as part of an over-all drainage basin plan;
 - d. No buildings or structure;

- e. No permanent storage of materials or equipment.

(Art. 73 ATM 1971 & Art. 76 ATM 1973)
(S.T.M. No. 6, Art. 12, 10/23/79)

III-A.5 AQUIFER PROTECTION DISTRICT (APD)

1. PURPOSE AND INTENT:

To protect, preserve and maintain the existing and potential groundwater supply and recharge areas within the town; and to promote the health, safety and general welfare of the community. To create an overlay district which circumscribes aquifers and aquifer recharge areas and imposes conditions, where such are necessary to accomplish the purpose of the APD, for enjoying uses of the underlying land.

1A. APPLICABILITY:

This Section III-A.5 shall not apply to residentially used lots in the RS and RG districts, however where more than 20% of such lots are hereafter proposed to be made impervious, roof runoff shall be directed to a pervious area or dry-well approved by the local building inspector.

(Art. 28, 1997 Fall ATM)

2. DEFINITIONS:

Aquifer:	Areas of permeable deposits of rock or sand and gravel containing significant amounts of potentially recoverable potable water with saturated thicknesses greater than 50 feet
Groundwater:	Subsurface water present in delineated aquifers and recharge areas
Impervious Material:	Material that substantially restricts the penetration of surface water into the soil
Leachable Wastes:	Waste materials including without limitation solids, sewage sludge and agricultural residue which may release

water-borne contaminants to the surrounding environment

Mining of Land:

The removal or relocation of geologic materials for the purpose of extracting topsoil, sand and gravel, metallic ores, or bedrock materials

Radioactive Materials:

Any of the materials which have a concentration which exceeds the limits set forth in Appendix B, Table II of 10 CFR Part 20 (Standards for Protection Against Radiation)

Recharge Areas:

Areas of permeable deposits with saturated thicknesses less than 50 feet, which are hydraulically connected to and located upgradient of aquifer areas

Process Liquids:

Liquids used in cooling or in the manufacturing process which contact raw materials, product, wastes or machinery and which because of that contact contain hazardous wastes or do not meet state drinking water standards

Solid Waste:

Useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing, including, without limitation, rubbish, garbage, scrap material and landscape refuse

Hazardous Waste:

Materials as defined pursuant to M.G.L., Chapter 21E, Section 2

Toxic or Hazardous Substances:

Substances as defined by M.G.L., 111F, Section 1

3. BOUNDARIES OF APD:

a) The Aquifer Protection District includes land within the Town which is encompassed by the areas designated on the twenty-four (24) maps entitled "Aquifer Protection District, Town of Natick, Massachusetts", dated July 1985 and revised October, 1987, and drawn to a scale of 1:200, which maps also show the lot lines of the land according to the Assessors' Maps, and which are intended to include aquifers and aquifer recharge areas. (Art. 45, 1988 ATM, April 5, 1988)

b) Where the exact location of the boundary line of an APD is in dispute as to any parcel, the owner thereof may seek an advisory opinion from the Conservation Commission, who shall employ the services of competent professionals such as hydrogeologists or soil scientists, all at the expense of the owner. The evidence so produced shall be maintained in the records of the Town by the Conservation Commission and shall be produced, along with any other pertinent evidence, whenever the issue of location of or re-delineation of the boundary of an APD comes before a Town Agency or the Town Meeting.

4. PERMITTED USES

Unless specifically prohibited by Section 5 hereafter, or unless a special permit is required for a conditional use under Section 6, the uses permitted by the underlying zoning either as a matter of right or under a special permit, shall continue to be permitted or allowed in the APD.

5. PROHIBITED USES

a) In the APD District, the Board of Appeals shall not grant a variance to: (i) allow any use which is prohibited by this Section III.A.5(b) or (ii) to allow any use not permitted as a matter of right or not allowed upon the issuance of a special permit, in the underlying zoning district, except that the Board of Appeals may grant variances or special permits to allow such change in use, subject to the provisions set forth in Section 7 of this By-law (Special Procedures etc.).

b) In addition to the foregoing, the following uses are specifically prohibited:

1. Disposal on-site of solid wastes, other than brush and stumps
2. Storage of petroleum or other refined petroleum products except within buildings which it will heat, and except in connection with replacement of existing tanks
3. The disposal of liquid or leachable wastes, except as permitted into subsurface waste disposal systems subject to regulation under Title 5 of the State Environmental Code
4. The discharge on-site of industrial process liquids
5. Storage of road salt or other deicing chemicals, except

- as packaged for consumer use
6. The depositing of snow containing road salt or other deicing chemicals on a site which has been transported from off-site
 7. The storage of uncovered manure
 8. The permanent removal or regrading of the existing soil cover resulting in a finished grade at a level below five (5) feet above the existing spring high water level
 9. The mining of land, except as incidental to the exercise of a permitted or conditional use hereunder
 10. The storage or disposal onsite of hazardous wastes, toxic or hazardous substances, or radioactive materials.
 11. Junk and salvage yards
 12. Trucking and bus terminals
 13. Heliports and airports
 14. Car washes

(c) The storage and or disposal of hazardous waste, toxic or hazardous substances or radioactive materials is permitted provided that such storage and or disposals are incidental and necessary to the exercise of any permitted, conditional or allowed use in the APD.

Prior to implementation of any storage or disposal as described above, full plans insuring protection of the Town's Water Supply, for such storage and disposal, shall be submitted to the SPGA.

(Art. 17, Spring A.T.M., 4/13/93)

6. CONDITIONAL USES

The following uses are permitted upon the issuance of a special permit by the Special Permit Granting Authority ("SPGA") designated in the underlying zoning district, and in the absence of such designation, the Zoning Board of Appeals shall be the SPGA for the purposes of the APD.

a) The application of pesticides for non-domestic, non-municipal or non-agricultural uses, provided that all necessary precautions are taken to prevent hazardous concentrations of pesticides in the water and onsite as a result of such application. Such precautions include, but are not limited to, erosion control techniques, the control of runoff water (or the use of pesticides having low solubility in water), the prevention of volatilization and redeposition of pesticides and the lateral displacement (i.e. wind drift) of pesticides.

b) The application of fertilizers for non-domestic or non-agricultural uses provided that such applications are made in such a manner as to minimize

adverse impacts on surface and groundwater due to nutrient transport, deposition and sedimentation.

c) The operation of a coin operated non-commercial laundry facility provided that the property does not utilize a septic system for any purpose, and that all waste water is discharged into a town sewage line and that no dry cleaning fluids or similar hazardous or toxic substance is discharged into the sewer system.

d) Where more than 20% of any lot is hereafter proposed to be impervious, a special permit shall be required to permit such use, on condition that water shall be recharged to the aquifer to compensate for all impervious lot coverage greater than 20%.

e) Coin operated or commercial laundries, provided that all waste water and no other fluids, are discharged into a town sewage line.

f) The uses designated as Use #'s 24, 28, 29, 30 and 32 in the Use Regulation Schedule Section III-A.2 of the Zoning Bylaw.

(Art. 17, Spring A.T.M., 4/13/93) (Art. 23, Fall A.T.M., 10/5/93)

7. SPECIAL PROCEDURES REGARDING THE ISSUANCE OF SPECIAL PERMITS IN THE APD DISTRICT

a) In addition to the requirements of the M.G.L. Chapter 40A, Section 9 and the rules and regulations of the SPGA, the following additional requirements shall apply:

- 1) At least seven copies of any proposed plan for development shall be submitted to the SPGA
- 2) A topographic map of the site shall be provided at a scale of 1:200 or larger scale, from which surface runoff directions can be readily determined
- 3) Evidence regarding the seasonal high groundwater elevation
- 4) A design to maintain aquifer recharge at pre-permit amounts where the impervious surface will exceed 20% of the lot area, and a design to cleanse and filter the runoff from such impervious surfaces recharged to the aquifer
- 5) For industrial or commercial uses, an emergency response plan to prevent contamination of soil or groundwater in the event of accidental spills or the release of toxic or hazardous substances onsite

b) The applicant may request in writing a waiver of any of the foregoing requirements in paragraph 7a hereof, which request shall be communicated by the SPGA within three (3) business days of its receipt to the Planning Board (unless it is functioning as the SPGA with respect to such request), the Board of Health, the Conservation Commission and the Department of Public Works (hereinafter, the "Advisory Bodies"). Unless one of the Advisory Bodies communicates its decision to require the materials sought to be waived, within twenty two (22) days of the making of such request, the waiver may be granted by the SPGA. (Art. 28, Fall A.T.M. 1992)

c) The SPGA shall provide copies of the application and all other submittals of the applicant within three business days of filing to the Advisory Bodies for their recommendations. A public hearing on the application for a special permit may not be held prior to twenty two (22) days following the filing of the application. (Art. 28, Fall A.T.M. 1992)

d) In addition to any other requirements and conditions for granting a special permit, the SPGA, with respect to any application for a special permit in an APD, shall make a finding that:

- 1) The proposed use is consistent with the purpose and intent of the APD
- 2) The proposed use is appropriate to the natural topography, soils, and other characteristics of the site to be developed
- 3) The proposed use will not, during construction or thereafter, have an adverse environmental impact on the aquifer water supply
- 4) The proposed use will not adversely affect an existing or potential water supply
- 5) In addition to any other considerations for the grant of a special permit in the underlying zoning district, the SPGA shall, in the case of commercial and industrial uses, impose appropriate conditions which prevent compaction and siltation of soil, loss of recharge, exfiltration from sewer pipes and contamination of the soil or groundwater by oil chemicals, and nutrients. (Art. 17, Spring A.T.M., 4/13/93)

e) All reports of any of the Advisory Bodies, whether favorable or unfavorable, shall be retained in the official files of the SPGA regarding the related application for a special permit and shall be made available to the public.

(Art. 15, 1986 Fall ATM)

III-A.6 AFFORDABLE HOUSING

The following procedure is available in order to carry out the purposes of the inclusionary housing option program as described in Section 108 of these bylaws.

A- INCLUSIONARY HOUSING OPTION PROGRAM (IHOP)

The provisions of this section shall apply to all developments of parcels creating ten (10) or more new residential dwelling units. Tracts of land may be developed under the provisions of the existing underlying zoning, or an applicant who owns the parcel, or who has the right to develop it, may elect to proceed under the bonus provisions described hereinafter.

1- Applicants who meet the foregoing requirements may apply to the Planning Board for a special permit that will permit them to receive additional units and relaxation of frontage requirements in exchange for the provision of affordable housing units. The Planning Board shall act as an SPGA and any plan shall meet the requirements of the Site Plan Review provisions of this Bylaw. If a subdivision is involved a definitive subdivision plan shall be submitted to the Planning Board in addition to the submission required under the Site Plan Review procedures. The Natick Housing Partnership or any successor organization having similar interests shall be included in the agencies receiving the distribution of copies of plans for comment.

2- The number of additional dwelling units permitted under the IHOP procedure may not exceed 20% of that otherwise permitted under the underlying zoning, as demonstrated by a plan submitted to the Planning Board. In determining the size of the bonus to be granted the Planning Board may consider a number of factors, including the cost of the land, the cost of development including the cost of construction of the units and infrastructure, and the proposed market price of the units to be built. In addition to any other waiver permitted under the subdivision control law and the Rules and Regulations of the Planning Board, requirements for area and/or frontage may be reduced as follows: area may be reduced up to 15% of the minimum intensity requirements of the underlying zone; frontage may be reduced up to 20% of the minimum required in the underlying zone.

3- Provided that additional units are granted by the Planning Board under the foregoing provision then affordable housing units shall be provided in any one of the following alternatives, subject to approval of the Planning Board:

A) By Donation to the Natick Housing
AuthorityA minimum of 5%*

B) By Sale to the Natick Housing

AuthorityA minimum of 10%*

C) By sale directly to low or moderate income

householdsA minimum of 10%

D) By cash payment to be used for low or moderate income family housing, or other
affordable housing units **

Notes: * = % of total units in development, rounded up to the
next whole number

** = Amount is determined by professional valuation
methods as the equivalent value to the units which
otherwise would have been provided within the
development as affordable units.

a) Units to be donated to the Natick Housing Authority are subject to the
approval of the Natick Housing Authority, and of the applicable federal or state
funding agency.

b) Units set aside for sale to the Natick Housing Authority shall be offered at
prices which do not exceed the greater of:

(i) the construction costs of the particular units, or (ii) the current acquisition cost
limits for the particular units under applicable state or federal financing programs. If
the Natick Housing Authority is unable to purchase the set-aside units at the time of
completion, the units shall be offered for sale to low and moderate income
households.

c) Units set aside for sale to low/moderate income households shall be
offered only to those households which qualify as "low" or "moderate" in accordance
with the definitions set forth in this bylaw.

4- Each affordable unit created in accordance with this section shall have
limitations governing its resale. Such limitations shall have as their purpose to
preserve the long-term affordability of the unit and to ensure its continued availability
to low or moderate income households. The limitations may include a formula to
determine the maximum selling price which will take into account the lowered
mortgage rates available to the owner at time of purchase, any appreciation to date
of proposed sale, and any regulations of the agency which may have participated in
providing financing for the original purchase. Additionally, such limitations may
provide that in the event of a market rate sale a sum of money shall be returned to a
designated agency in the Town that reflects the differential in mortgage rates
enjoyed by the owner as a result of less than market rate financing. The resale
controls shall be established through a deed restriction, and shall be in force for the
maximum period that is permitted under the Massachusetts General Laws. Such
restrictions may also provide that the Natick Housing Authority shall have a prior
right of purchase at the price determined according to the restriction for a period of
thirty (30) days

after the unit is placed on sale. Notice of any proposed sale shall be given to the
Planning Board and to the Natick Housing Authority. (Art. 35, 1992 Fall A.T.M.)

5- Affordable Units to be offered for sale under the IHOP provisions shall, for a period of six (6) months from the date of first offering for sale, be offered on a 50%-50% basis to residents of the Town of Natick and to persons employed within the Town of Natick. Natick residency status shall be given only to one who had been a resident for at least one (1) year within the previous five (5) years. Such preference shall not be given if prohibited by, or to the extent prohibited by, a federal or state agency under a financing or other subsidy program. Persons who are both residents and work in the Town of Natick shall be given only one preference.

6- In addition to any requirements under Site Plan Review, the Special Permit, or Subdivision approval, an applicant must submit a development plan acceptable to the Planning Board plan indicating how the parcel could be developed under the underlying zoning (i.e. a baseline plan). Any bonus granted shall be calculated from the baseline plan. The development plan showing the bonus units shall also indicate the proposed affordable units, which must be dispersed throughout the parcel to ensure a mix of market-rate and affordable housing. Affordable units shall have an exterior appearance that is compatible with, and to the extent that is possible, indistinguishable from the market rate units in the development. Affordable units shall contain at least two (2) or more bedrooms and shall be suitable as to design for family occupancy. The owners of affordable units shall have all of the rights and privileges accorded to market rate owners regarding any amenities within the development. (Art. 10, 1991 Fall A.T.M.)